

ITEM 6
TEST CLAIM
FINAL STAFF ANALYSIS

Education Code Sections 1040, 1240, 1240.2, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1628, 1630, 14050, 33127, 33128, 33129, 33132, 42120, 42129, and 42133

Statutes of 1975, Chapter 125
Statutes of 1977, Chapter 843
Statutes of 1979, Chapters 10 and 221
Statutes of 1983, Chapter 1276
Statutes of 1985, Chapter 741
Statutes of 1986, Chapter 1150
Statutes of 1987, Chapters 917 and 1452
Statutes of 1988, Chapters 1461 and 1462
Statutes of 1989, Chapter 1256
Statutes of 1990, Chapter 1372
Statutes of 1991, Chapter 1213
Statutes of 1992, Chapter 323
Statutes of 1993, Chapters 923 and 924
Statutes of 1994, Chapters 650 and 1002
Statutes of 1995, Chapter 525

California Code of Regulations Title 5 Sections 15467-15493

California Department of Education Fiscal Management Advisories 86-02, 86-03, 87-01, 88-01, 88-10, 92-03 and Management Advisories 92-06, 92-07, 92-08, 93-02, 94-01, 94-02, 94-07, 95-03, 95-04, 95-07, 96-08

County Office Budget Process and Financial Statements

Executive Summary

Background

The test claim alleges mandated costs reimbursable by the state for county office of education activities associated with the preparation and submission of various budget and financial reports to the state.

The claim arises from enactments or amendments to twenty budget-related Education Code sections and California Code of Regulations, Title 5, sections 15467-15493. Claimant also maintains that seventeen California Department of Education (CDE) management advisory letters published between 1986 and 1996 all constitute executive orders imposing a reimbursable state mandate. The Commission has heard previous test claims related to school district and county office of education budget processes. There is also significant overlap between this test claim and another filed simultaneously by the same claimant: *97-TC-19, School District Budget Process, Financial Statements, and County Office Oversight*.

Claimant's Position

Claimant, Alameda County Office of Education, contends that the test claim legislation and executive orders create new state-mandated duties related to the uniquely governmental function of providing public education to children and these statutes apply only to public schools and do not apply generally to all residents and entities in the state. Claimant further contends that county office of education activities associated with complying with budget process and financial statements mandated by the test claim statutes, regulations and executive orders, result in costs mandated by the state, as defined in Government Code section 17514.

State Agency Position

The Department of Finance's (DOF's) overall response to the test claim is that no reimbursable state mandate exists because none of the claimed statutes constitute a new program or higher level of service, or impose costs mandated by the state, under Government Code section 17514 or section 6, article XIII B of the California Constitution. DOF has several arguments supporting its contention. Specifically, DOF asserts that several of the challenged statutes are not reimbursable mandates because they existed under prior law; the Commission previously heard test claims based on several of the claimed statutes and found that budget reporting requirements of school districts and county offices of education do not constitute a state mandate because they are not new; and, some of the claimed code sections and executive orders do not require activities to be performed by school districts or county offices of education.

Regarding the remaining provisions, DOF contends that the reporting requirements and budget processes do not create a higher level of service, but instead constitute the long-standing traditional requirements of county offices of education and school districts to report and account to the Superintendent of Public Instruction.

Staff Analysis

The test claim legislation makes some changes to budget and financial statements as compared to prior law. The individual issues addressed by this claim are numerous, the analysis for whether the individual claimed provisions are reimbursable state mandates generally hinges on whether the claimed section imposes a new activity that was not required under prior law. Staff finds that the basic requirements for county offices of education to engage in budgetary activities were contained in prior law. However, staff finds that some activities under the test claim legislation are new and constitute a reimbursable state mandate.

Conclusions and Recommendations

Staff concludes that Education Code sections 1240, subdivision (j), 1240.2, 1622, 1625, 1628 and 1630 impose a new program or higher level of service within an existing program upon county offices of education within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to Government Code section 17514.

Accordingly, staff recommends that the Commission approve this test claim for the following activities necessary for county offices of education to comply with annual budget requirements:

- Preparing, reviewing, approving and submitting, in the format or on forms prescribed by the Superintendent of Public Instruction, financial and budgetary status reports, one within 45 days of the conclusion of the period ending October 31, and one within 45 days of the period ending January 31. Certifying in writing, either positively, qualifiedly or negatively, within 45 days after the close of the period being reported, whether the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent two fiscal years. (Ed. Code, § 1240, subd. (j).)
- Sending a copy of each county office of education budget status report and financial certification to the Superintendent of Public Instruction. (Ed. Code, § 1240, subd. (j).)
- Sending a copy of any negative or qualified county office of education financial certification to the SCO. (Ed. Code, § 1240, subd. (j).)
- Providing to the Controller and the Superintendent of Public Instruction, no later than June 1, a financial statement that covers the financial and budgetary status of the county office of education for the period ending April 30 and projects the fund and cash balances of the county office of education as of June 30. This is only applicable to a county office of education that has a qualified or negative financial certification. (Ed. Code, § 1240.2.)
- Adjusting for the earlier deadline of holding the public hearing by July 1, (one-time, if costs were incurred within reimbursement period.) (Ed. Code, § 1620.)
- Revising the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, including any response to the recommendations of the Superintendent of Public Instruction. (Ed. Code, § 1622.)
- Posting the agenda at least 72 hours prior to the public hearing regarding the budget revisions, including the location where the revised budget and supporting data will be available for public inspection, (only when not reimbursable under the Open Meetings Act Parameters and Guidelines.) (Ed. Code, § 1622.)
- Holding a second public hearing prior to finalizing the revised the budget, (only when not reimbursable under the Open Meetings Act Parameters and Guidelines.) (Ed. Code, § 1622.)
- Filing the revised budget with the county board of supervisors and the county auditor. (Ed. Code, § 1622.)
- Drafting a statement of correction when the county office of education incurs a negative balance. (Ed. Code, § 1625.)
- Preparing and filing with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year, in a format or on forms prescribed by the Superintendent of Public Instruction. (Ed. Code, § 1628.)
- Submitting to the Superintendent of Public Instruction financial projection of all fund and cash balances. (Ed. Code, § 1630.)

- Encumbering all contracts and other obligations. (Ed. Code, § 1630.)
- Preparing for the Superintendent of Public Instruction an appropriate cash-flow analyses and monthly or quarterly budget revisions.
- Recording all receivables and payables. (Ed. Code, § 1630.)
- Submitting a proposal to the Superintendent of Public Instruction for addressing the fiscal conditions that resulted in the determination that the county office of education may not meet its financial obligations. (Ed. Code, § 1630.)

Staff recommends denial of all remaining test claim issues, code sections and executive orders because they do not constitute a new program or higher level of service, and do not impose costs mandated by the state.

Claimant

Alameda County Office of Education

Chronology

12/30/97	Claimant files test claim with Commission
01/09/98	Commission staff determines test claim is incomplete
01/13/98	Claimant files response
01/27/98	Commission staff finds test claim is complete
03/26/98	Commission staff finds test claim disputed
05/28/98	Department of Finance (DOF) files response to test claim
06/10/98	Claimant files letter declining to file rebuttal to DOF response
07/25/00	Commission staff issues Draft Staff Analysis
08/30/00	Claimant files response to Draft Staff Analysis

Background

The test claim alleges mandated costs reimbursable by the state for activities associated with the preparation and submission of various county offices of education budget and financial reports to the state.

The claim arises from enactments or amendments to twenty budget-related Education Code sections and California Code of Regulations, Title 5, sections 15467-15493. Claimant also maintains that seventeen California Department of Education (CDE) management advisory letters published between 1986 and 1996 all constitute executive orders imposing a reimbursable state mandate. The Commission has heard previous test claims related to school district and county office of education budget processes. There is also significant overlap between this test claim and another filed simultaneously by the same claimant: *97-TC-19, School District Budget Process, Financial Statements, and County Office Oversight*.

Claimant's Position

Claimant contends that the test claim legislation and executive orders create new state-mandated duties related to the uniquely governmental function of providing public education to children and these statutes apply only to public schools and do not apply generally to all residents and entities in the state. Claimant further contends that activities associated with complying with county office of education budget process and financial statements mandated by the test claim statutes, regulations, and executive orders result in costs mandated by the state, as defined in Government Code section 17514.

Claimant's individual contentions regarding each of the claimed statutes, code sections or executive orders will be restated and addressed more fully in the staff analysis.

State Agency Position

DOF's overall response to the test claim is that no reimbursable state mandate exists because none of the claimed statutes imposes a new program or higher level of service, or costs mandated by the state under Government Code section 17514 or section 6, article XIII B of the California Constitution. DOF has several arguments supporting its contention:

- DOF asserts that several of the challenged statutes are not reimbursable mandates because they existed under prior law, as enacted before January 1, 1975. Specifically, DOF asserts that Education Codes sections 1040, 1240, 1620, 1621, 1623, 1624, 1625 and 14050 were enacted prior to 1975 and were simply re-numbered by Statutes of 1976, Chapter 1010.
- DOF asserts that the Commission previously heard test claims based on several of the claimed statutes and found that budget reporting requirements of school districts and county offices of education do not constitute a state mandate because they are not new. In particular DOF refers to the Commission's Statement of Decision in *CSM-4389, Budgeting Criteria and Standards*, adopted August 22, 1991, in which the Commission *did not* find a reimbursable state mandate for school district budget activities as added or amended by Statutes of 1988, Chapter 1462.
- DOF asserts that claimed Education Code sections 1626, 33127, 33128, 33129, 42120 and 42129 and the CDE Management Advisories do not require activities to be performed by county offices of education.
- Regarding the remaining provisions, DOF contends that the reporting requirements and budget processes do not create a higher level of service to the public, but instead constitute the long-standing traditional requirements of county offices of education and school districts to report and account to the Superintendent of Public Instruction.

Staff Analysis

Issue:

Do the subject statutes, regulations and fiscal management advisories impose a new program or higher level of service within an existing program upon county offices of education within the meaning of section 6, article XIII B of the California Constitution¹ and costs mandated by the state pursuant to Government Code section 17514² by requiring new or additional budgetary, financial statement, and related fiscal management procedures?

A test claim statute or executive order may impose a reimbursable state mandated program if statutory and regulatory language directs or obligates an activity or task upon local governmental entities. In addition, the required activity or task must be new, constituting a "new program," or

¹ Section 6, article XIII B of the California Constitution provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

² Government Code section 17514 provides: "Costs mandated by the state means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

create an increased or “higher level of service” over the previously required level of service. The courts have defined a “new program” or “higher level of service” as a program that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy but does not apply generally to all residents and entities in the state. To determine if a required activity is new or imposes a higher level of service, a comparison must be drawn between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the newly required activity or increased level of service must impose costs mandated by the state.³

The test claim legislation and regulations involve the administration of the county office of education budget process and financial statements. Public education in California is a peculiarly governmental function administered by local agencies as a service to the public.⁴ Moreover, the test claim legislation, which requires school districts to administer the school district budget process, imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Thus, staff finds the administration of the budget process by county offices of education constitutes a “program” within the meaning of section 6, article XIII B of the California Constitution.⁵

However, the inquiry must continue to determine if the activities are new or impose a higher level of service and if so, if there are costs mandated by the state. The claimant contends that all of the test claim legislation and regulations impose new programs or higher levels of service upon county offices of education by requiring specific activities related to annual budgets and financial statements.

Before the enactment of the test claim legislation, county offices of education were required to engage in annual budget activities.⁶ The subject test claim legislation makes some changes to annual budget reporting requirements as compared to prior law. The individual issues addressed by this claim are numerous. The analysis of whether the individual provisions are reimbursable state mandates generally hinges on whether the claimed section requires a local agency to perform a new activity or higher level of service than that required under prior law.

The test claim analysis is presented in three sections to categorize the test claim provisions in manageable components, as follows:

- I. Test Claim Legislation Consolidated With Overlapping Test Claim
- II. Remaining Test Claim Legislation
- III. Test Claim Executive Orders

I. Test Claim Legislation Consolidated With Overlapping Test Claim

There is significant overlap between this test claim and another filed simultaneously by the same claimant: *97-TC-19, School District Budget Process, Financial Statements, and County Office Oversight*. The current test claim is specific to county offices of education, while *97-TC-19*

³ County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56; Carmel Valley Fire Protection Dist. v. State of California (1987) 190 Cal.App.3d 521, 537; Lucia Mar Unified School Dist. v. Honig (1988) 44 Cal.3d 830, 835.

⁴ Long Beach Unified School Dist. v. State of California (1990) 225 Cal.App.3d 155, 172 states “although numerous private schools exist, education in our society is considered to be a peculiarly governmental function ... administered by local agencies to provide service to the public.”

⁵ Id.

⁶ Prior Education Code sections 801 through 806, 18351 et seq., and 20400 through 20405 (1959).

includes budget activities for individual school districts, as well as activities equally pertinent to county offices of education when engaging in the annual budget process. Both claims allege reimbursable state mandates under Education Code sections 33127, 33128, 33129, 33132, 42129, and 42133 as well as CDE Management Advisories (or Fiscal Management Advisories) 86-02, 86-03, 87-01, 88-01, 88-10, 92-03, 92-06, 92-07, 92-08, 93-02, 94-02, 94-07, and 96-08. These overlapping code sections and executive orders were evaluated for their effects upon both school districts and county offices of education in the analysis for test claim 97-TC-19, *School District Budget Process*. Accordingly, the analysis of these code sections will not be restated as part of this test claim.

II. Remaining Test Claim Legislation

A. Renumbering, Reenactment, Restatements:

At the outset staff notes that many of the code sections included in the test claim legislation were in effect well before the enactment of the test claim legislation, but as a result of the test claim legislation were either renumbered or restated in a “newly enacted” code section. Staff makes an overall finding, in accordance with Education Code section 3, that under these circumstances a renumbered or restated statute, originally enacted prior to the enactment of the test claim legislation will not be considered to be a newly enacted provision. Education Code section 3 provides:

“The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.”

The rationale behind Education Code section 3 is in accordance with the holding of *In re Martin’s Estate* (1908) 153 Cal. 225, 229, which explains the general rule of statutory construction for repeal, replacement and renumbering, as follows:

“Where there is an express repeal of an existing statute, and a re-enactment of it at the same time, or a repeal and a re-enactment of a portion of it, the re-enactment neutralizes the repeal so far as the old law is continued in force. It operates without interruption where the re-enactment takes effect at the same time.”⁷

The holding of *In re Martin’s Estate* is consistent with a California Attorney General Opinion⁸ which explains that where there is express repeal of existing statute and re-enactment of it at the same time, re-enactment neutralizes repeal as far as the old law continues in force, and it operates without interruption where re-enactment takes effect at the same time.

Based upon the foregoing rules of statutory construction, staff finds that a renumbering, reenactment or restatement of prior law does not constitute a reimbursable state mandate to the extent that the provisions and associated activities remain unchanged.

⁷ *In re Martin’s Estate* (1908) 153 Cal. 225, 229.

⁸ 15 Ops.Cal.Atty.Gen. 49 (1950).

B. Analyses of the Remaining Code Sections

Each of the remaining claimed code sections is analyzed individually below to determine if they are new or impose a higher level of service and if so, if there are costs mandated by the state.

1. Education Code section 1040. This section provides that county boards of education shall approve the annual budget and the annual county school service fund budget of the county superintendent of schools.

Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 651 as Education Code section 1040. Section 1040 was later amended by Statutes of 1985, Chapter 741, which added subdivision (e), requiring the review of the annual audit at a public meeting of the board. Section 1040, as amended by Statutes of 1985, Chapter 741, was a subject of test claim *CSM-4498/4498A, Financial and Compliance Audits*. However, claimant is not re-alleging subdivision (e), rather claimant is alleging a reimbursable state mandate for the requirements imposed under subdivisions (a) through (d). Since these subdivisions were in effect under prior section 651, and were re-enacted in 1976 under section 1040, staff finds that the activities imposed under these subdivisions do not impose new programs or higher levels of service, and do not impose costs mandated by the state.

2. Education Code section 1240, subdivision (j). This subdivision provides that the county superintendent of schools shall submit two annual reports on the financial and budgetary status of the county office of education. The reports shall be reviewed by the county board of education and approved by the county superintendent of schools no later than 45 days after the close of the reporting period. The county superintendent shall certify in writing, either positively, qualifiedly or negatively, that the county office of education is able to meet its financial obligations for the two subsequent fiscal years, pursuant to the state standards prescribed in section 1241.1. Copies of each budget status report and certification shall be sent to the Superintendent of Public Instruction. Any qualified or negative certification shall be also sent to the SCO. All reports and certifications shall be in a format or on forms prescribed by the Superintendent of Public Instruction.

Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 801 as Education Code section 1240. Statutes of 1987, Chapter 1452 added section 1240, subdivision (j)⁹. Before the enactment of section 1240, subdivision (j), county boards of education had to provide annual tentative and final budgets, but they did not have to submit two additional annual reports on the current county office of education financial and budgetary status, nor did they have to specifically certify and report to the Superintendent of Public Instruction regarding their ability to meet future financial obligations. The reporting activities associated with the certification process are new to county offices of education.

DOF maintains that subdivision (j) does not mandate any new program or higher level of service, but instead the 1997 amendment restated the long-standing traditional duties of school districts and county offices of education to report financial and fiscal information to the Superintendent of Public Instruction. In addition, DOF contends that Education Code section 1245¹⁰ reflects this long-standing duty to make reports as follows:

⁹ This provision was first added to the code by Statutes of 1985, Chapter 741 to Education Code section 1241. The pertinent language of section 1241 was then added to section 1240 by Statutes of 1987, Chapter 1452, which was simultaneously repealed section 1241.

¹⁰ Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 806 as Education Code section 1245.

“Each county superintendent of schools shall submit the reports as may from time to time be required by the Superintendent of Public Instruction.”

Staff disagrees with DOF’s position and finds that Education Code section 1240, subdivision (j), as added by Statutes of 1987, Chapter 1452, while associated with traditional budget activities, constitutes an entirely new program. Staff notes that under section 1245, entitled “Additional reports,” which is part of the test claim, provides for an eventuality in which the Superintendent of Public Instruction may require “from time to time” a special report of a county superintendent that is not otherwise provided for in the code, such as a survey further information regarding a regular budget, financial, or attendance report. The requirements of section 1240 extend beyond the requirements of section 1245 by setting forth specified periods in which budget reports must be filed.

Based on the foregoing, the absence of evidence demonstrating that these activities were required by prior law, staff finds that the following activities impose a new program or higher level of service, and impose costs mandated by the state to county offices of education, to the extent that they are required:

- Preparing, reviewing, approving and submitting, in the format or on forms prescribed by the Superintendent of Public Instruction, financial and budgetary status reports, one within 45 days of the conclusion of the period ending October 31, and one within 45 days of the period ending January 31. Certifying in writing, either positively, qualifiedly or negatively, within 45 days after the close of the period being reported, whether the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent two fiscal years.
- Sending a copy of each county office of education budget status report and financial certification to the Superintendent of Public Instruction.
- Sending a copy of any negative or qualified county office of education financial certification to the SCO.

3. Education Code section 1240.2.¹¹ This section provides that a county superintendent of schools who files a qualified or negative certification for the second report required pursuant to subdivision (j) of Section 1240 and a county office of education that is classified as qualified or negative by the Superintendent of Public Instruction shall provide to the Superintendent of Public Instruction and the Controller, no later than June 1, a financial statement that covers the financial and budgetary status of the county office of education for the period ending April 30 and projects the fund and cash balances of the county office of education as of June 30.

DOF argues that this section does not mandate any new program or higher level of service, but instead constitutes part of the long-standing traditional duties of school districts and county offices of education to report financial and fiscal information to the Superintendent of Public Instruction. Staff disagrees and finds that Education Code section 1240.2, as added by Statutes of 1995, Chapter 525, while associated with traditional budget activities, constitutes an entirely new program. Before the enactment of this section, county boards of education had to provide an annual budget, but they did not have to specifically certify and report their ability to meet future financial obligations to the Superintendent of Public Instruction. Accordingly, staff finds that the following activity, as required by Education Code section 1240.2, imposes a new

¹¹ Education Code section 1240.2 was added by Statutes of 1995, Chapter 525.

program or higher level of service, and costs mandated by the state to county offices of education:

- Providing to the Controller and the Superintendent of Public Instruction, no later than June 1, a financial statement that covers the financial and budgetary status of the county office of education for the period ending April 30 and projects the fund and cash balances of the county office of education as of June 30. This is only applicable to a county office of education that has a qualified or negative financial certification.

4. Education Code section 1620.¹² This section provides that on or before July 1 of each fiscal year, the county board of education shall hold a public hearing on the proposed county school service fund budget for that fiscal year. The public hearing shall be held prior to the adoption of the budget by the county board of education, and shall occur not less than three days following the availability of the proposed budget for public inspection. The agenda for that hearing shall be posted at least 72 hours prior to the hearing and shall include the location of where the budget will be available for inspection. At the hearing, any taxpayer directly affected by the county school service fund budget may appear and speak.

Under prior law Education Code section 1623¹³ provided that:

“On or before August 10, the county board of education shall hold a public hearing on the county school service fund budget. Notice of the public hearing shall be published at least once in a newspaper of general circulation published within the county not less than 10 days prior to the date set for the hearing. The cost of publication shall be a proper and legal charge against the county school service fund ... The published notice shall include the time, place, and purpose of the public hearing, and such other information as may be determined by the county board of education, and shall state that any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak to the proposed budget item or any item therein.”

Although prior law is substantially similar, there are two significant changes. The first change is the earlier deadline for holding the public hearing, now on or before July 1, instead of on or before August 10; the other change is the specification that the budget is to be made available for public inspection. Staff finds that there is a reimbursable activity resulting in a *one-time* administrative cost for adjusting to the earlier deadline of holding the public hearing by July 1 instead of by August 10. However, staff notes that the statutory requirement for the earlier deadline was enacted by Statutes of 1991, Chapter 1213, effective January 1, 1992. The reimbursement period for this test claim began July 1, 1996; therefore, county offices of education should have incurred their one-time costs before the reimbursement period.

Staff finds that the requirement to make a copy of the budget available for public inspection was covered under prior law, Government Code section 6253,¹⁴ which provides that public records of local agencies are open to inspection at all times during the office hours of the agency. Staff further finds that other activities in section 1620, such as having a public hearing on the budget, or posting or publishing the agenda in advance of the hearing were also included in prior law. Therefore, staff finds that Education Code section 1620 imposes a new program or higher level

¹² Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1992, Chapter 323.

¹³ Former Education Code section 20403 was renumbered and re-enacted by Statutes of 1976, Chapter 1010. It was later repealed by Statutes of 1991, Chapter 1213, which enacted the similar Education Code section 1620.

¹⁴ Added by Statutes of 1968, Chapter 1473.

of service, and costs mandated by the state upon county offices of education for the following one-time activity:

- Adjusting for the earlier deadline of holding the public hearing by July 1, (one-time, if costs were incurred within reimbursement period.)

5. Education Code section 1621. This section provides that a single-fund budget shall be prepared in the form prescribed and furnished by the Superintendent of Public Instruction and shall be the county school service fund budget. This budget shall show a complete plan and itemized statement of all proposed expenditures in each fund of the county office of education, of estimated cash balances, and of all estimated revenues for the budget year, and shall include an estimate of those figures, unaudited, for the fiscal year immediately preceding the budget year. The budget may contain an amount to be known as the general reserve, in such sum as the county board of education may deem sufficient to meet the cash requirements of the fiscal year next succeeding the budget year until adequate proceeds of the taxes levied or of the apportionment of state funds are available. The budget may contain a fund balance designated for any specific purpose as determined by the county board of education. Those funds shall be available for appropriation by a majority vote of the members of the county board of education.

Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 20401 as Education Code section 1621 which was later amended by Statutes of 1987, Chapter 917, Statutes of 1988, Chapter 1462, and later repealed and re-enacted by Statutes of 1991, Chapter 1213. Despite this history, the provisions of section 1621 are substantially similar to that under prior law. The only significant change in this section is the allowance for the appropriation of the undesignated fund balance by a *majority vote* of the members of the county board of education. Whereas, under prior law the undistributed reserve was available for appropriation by a *two-thirds vote* of the members. Staff finds that this change is less restrictive than prior law in that it allows county offices of education to lower the voting threshold for miscellaneous appropriations. Accordingly, staff finds there are no provisions of this code section that increase the activities or duties imposed on county offices of education. Thus, staff finds Education Code section 1621 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

6. Education Code section 1622.¹⁵ This section provides that, on or before July 1 of each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing as required under Section 1620.

Section 1622 further provides that, on or before September 8, the county board of education shall revise the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the Superintendent of Public Instruction, shall adopt the revised budget, and shall file the revised budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. Prior to revising the budget, the county board of education shall hold a public hearing regarding the proposed revisions, which shall be made available for public inspection not less than three working days prior to the hearing. The agenda for that hearing shall be posted at least 72 hours prior to the public hearing and shall include the location where the revised budget

¹⁵ Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1992, Chapter 323 and Statutes of 1993, Chapter 923.

and supporting data will be available for public inspection. The Superintendent of Public Instruction, no later than October 8, shall approve or disapprove the revised budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623. Not later than 45 days after the Governor signs the annual Budget Act, the county office of education shall make available for public review any budget revisions to reflect the funding made available by that Budget Act.

The basic activities of county offices of education preparation and submission of tentative and final annual budgets, holding a public hearing, and approving the budget were set forth in prior law under Education Code sections 18351, 20401, 20402, and 20403, later renumbered and re-enacted by Statutes of 1976, Chapter 1010 as sections 14050, 1621, 1622 and 1623, respectively. These budget requirements under prior law are described and more fully explained in this staff analysis under the headings for Education Code sections 1621, 1623 and 14050. Education Code section 1622, prior to its repeal and re-enactment by Statutes of 1991, Chapter 1213, previously provided,

“The single-fund budget shall be prepared in the form prescribed and furnished by the Superintendent of Public Instruction and shall be the county school service fund budget.”

Current Education Code section 1622 is primarily a consolidation of the prior law as discussed above. In addition to section 1620, Education Code section 1040¹⁶ also requires that the county office of education budget be submitted to the county board of supervisors, and Government Code section 53901¹⁷ requires that every local agency shall file its budget with its county auditor. While staff finds most of the requirements set forth in section 1622 are included in prior law, staff finds the provision for requiring the budget revision and holding a second public hearing prior to adoption of the revised budget imposes a new duty. Accordingly, staff finds that Education Code section 1622 imposes a new program or higher level of service, and costs mandated by the state upon county offices of education only for the following activities:

- Revising the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, including any response to the recommendations of the Superintendent of Public Instruction.
- Posting the agenda at least 72 hours prior to the public hearing regarding the budget revisions, including the location where the revised budget and supporting data will be available for public inspection, (only when not reimbursable under the Open Meetings Act Parameters and Guidelines.)
- Holding a second public hearing prior to finalizing the revised the budget.
- Filing the revised budget with the county board of supervisors and the county auditor.

7. Education Code section 1623.¹⁸ This section provides that the budget review committee shall be composed of three persons, selected by the county superintendent of schools and the county board of education, solely from a list of no fewer than five candidates provided by the Superintendent of Public Instruction. No later than five working days after the receipt of the candidate list, the county superintendent of schools and the county board of education shall

¹⁶ Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 651 as Education Code section 1040.

¹⁷ Added by Statutes of 1969, Chapter 1170.

¹⁸ Added by Statutes of 1991, Chapter 1213.

select the budget review committee. If the county superintendent of schools and the county board of education fail to select a committee within the period of time permitted by this subdivision, the Superintendent of Public Instruction instead shall select and convene the budget review committee no later than 10 working days after the receipt by the county superintendent of schools and the county board of education of the candidate list. This section provides that the members of the budget review committee shall be reimbursed for their services and associated expenses while on official business, at rates established by the State Board of Education.

Staff finds that section 1623, on its face, places the primary responsibility for forming the budget review committee upon the state. Pursuant to section 1622, if the state Superintendent of Public Instruction disapproves the county office of education budget, then the Superintendent of Public Instruction is required to call for the formation of a budget review committee. By the terms of section 1623, if the county board of education fails to name members to the committee within the specified time frame, the state Superintendent of Public Instruction is responsible for assembling the committee, which leaves the state with the administrative costs for forming the budget review committee. Thus, by the terms of section 1623, the county office of education board is not required to participate in the process, rather it has the option of participating closely in the process, or letting the state take on all activities, responsibilities and associated administrative costs of the budget review committee. Accordingly, staff finds that any costs incurred by a county office of education attributable to a budget committee are discretionary and thus, not reimbursable and that Education Code section 1623 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

8. Education Code section 1624.¹⁹ This section provides that if the budget review committee, described above, disapproves the budget of the county office of education, the county superintendent of schools and the county board of education, within five working days following the receipt of the committee's report, may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted budget and any other proposed action to be taken as a result of the recommendations of the budget review committee. Based upon the recommendations of the budget review committee, and any response provided, the Superintendent of Public Instruction shall either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, the Superintendent of Public Instruction or his or her designee may create a fiscal plan and new budget and engage in various fiscal management and review practices.

Section 1624 also provides that the Superintendent of Public Instruction may employ, at county office of education expense, short-term analytical assistance or expertise to validate financial information if the county does not have the expertise or staff. The Superintendent of Public Instruction may also require the county office of education to encumber all contracts and other obligations, prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables; determine whether there are any financial problem areas and may employ, at county office of education expense, a certified public accounting firm to investigate; withhold compensation of the members of the county board of education and the county superintendent for failure to provide requested financial information. The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred or associated with improving the county office of education's financial management practices. This section

¹⁹ Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1993, Chapter 924 and Statutes of 1994, Chapter 1002.

further provides that the Superintendent of Public Instruction may seek from the county office of education, or otherwise obtain, additional information regarding the budget or operations of the county office of education, through a financial or management review of the county office of education, a cash-flow projection, or other appropriate means.

This section was added in its entirety by Statutes of 1991, Chapter 1213. Former section 1624 was unrelated. DOF maintains that the requirements under this section do not create a new program or higher level of service, but instead codify or re-state the long-standing requirements of county offices of education and school districts to prepare a budget and report and account on that budget to the Superintendent of Public Instruction.

Staff generally agrees with DOF's assessment of section 1624. However, staff finds the question remains whether there is a reimbursable state mandated program under circumstances where the Superintendent of Public Instruction employs, at a county office of education's expense, either short term analytical assistance or a certified public accounting firm to assist the Superintendent of Public Instruction in the analysis and review of the county office of education's budget.

The California Supreme Court in *County of Los Angeles*²⁰ held that additional costs alone do not equate to a reimbursable state mandate under section 6, article XIII B. The *County of Los Angeles* court held rather, it is paramount that additional costs result from new programs or increased levels of service mandated by the state, stating:

“If the Legislature had intended to continue to equate ‘increased level of service’ with ‘additional costs,’ then the provision would be circular: ‘costs mandated by the state’ are defined as ‘increased costs’ due to an ‘increased level of service,’ which, in turn, would be defined as ‘additional costs.’ We decline to accept such an interpretation.”²¹

The California Supreme Court affirmed its holding in *County of Los Angeles* in a subsequent case, *Lucia Mar Unified School Dist. v. Honig*, stating:

“We recognize that, as is made indisputably clear from the language of the constitutional provision, local entities are not entitled to reimbursement for all increased costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state.”²²

Staff finds the test claim statute merely imposed a portion of the costs of the Superintendent of Public Instruction's analysis and review of the county office of education's budget without requiring the county office of education to perform any additional activities. Thus, in accordance with *County of Los Angeles*, staff finds that any costs to a county office of education under section 1624 are not reimbursable under section 6, article XIII B. Accordingly staff finds that the Education Code section 1624 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

9. Education Code section 1625.²³ This section provides that the county superintendent of schools of any county office of education reporting a negative unrestricted fund balance or a negative cash balance shall include a statement with the budget identifying the reasons for the

²⁰ *County of Los Angeles, supra*, 43 Cal.3d 46, at 55, 56.

²¹ *Id.*

²² *Lucia Mar, supra*, 44 Cal.3d 830, at 835.

²³ Added by Statutes of 1991, Chapter 1213, amended by Statutes of 1992, Chapter 323 and Statutes of 1993, Chapter 923. Formerly Education Code section 1623.5, as enacted by Statutes of 1986, Chapter 1150.

negative balance and the steps that will be taken to ensure that the negative balance will not occur at the end of the budget year.

Prior to the enactment of section 1625, the county superintendent of schools did not have a specified legal requirement to include a statement with the budget explaining a negative balance and the steps taken to change the situation by the end of the current year. Staff finds this statutory requirement imposes a new duty upon county offices of education that have a reportable negative balance. Accordingly, staff finds that Education Code section 1625 imposes a new program or higher level of service, and costs mandated by the state upon county offices of education for the following activity:

- Drafting a statement of correction when the county office of education incurs a negative balance.

10. Education Code section 1626.²⁴ This section provides that until the time the county office of education receives approval of its budget under this article, the county office of education shall continue to operate on the basis of the last budget adopted or revised for the county office of education for the fiscal year immediately preceding the budget year.

Prior law, under Education Code section 1621 required county offices of education to adopt and operate under an annual budget. The provisions of section 1626 require that, in the event that the county office of education does not have an approved annual budget, they continue to operate under the previous year's approved budget. Staff finds there is no evidence that this section imposes a new program or higher level of service, as it merely requires that the county office of education continue to operate in the most fiscally responsible manner until a new budget is adopted. Accordingly, staff finds, based upon its review of the record, Education Code section 1626 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

11. Education Code section 1628.²⁵ This section provides that, on or before September 15 each year, the county superintendent of schools shall prepare and file with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year. The statement shall be in a format or on forms prescribed by the Superintendent of Public Instruction.

Prior law required filing of an annual budget, but the requirement for submitting a report on the prior year's receipts and expenditures is entirely new. Therefore, staff finds that Education Code section 1628 imposes a new program or higher level of service, and costs mandated by the state upon county offices of education, for the following activity:

- Preparing and filing with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year, in a format or on forms prescribed by the Superintendent of Public Instruction.

12. Education Code section 1630.²⁶ This section provides that if, at any time during the fiscal year, the Superintendent of Public Instruction determines that the county office of education may

²⁴ Added by Statutes of 1991, Chapter 1213. Formerly Education Code section 1623.6, as enacted by Statutes of 1986, Chapter 1150.

²⁵ Added by Statutes of 1991, Chapter 1213. Formerly Education Code section 1626, as enacted by Statutes of 1988, Chapter 1461.

²⁶ Added by Statutes of 1993, Chapter 924; amended by Statutes of 1994, Chapter 1002 and Statutes of 1995, Chapter 525. Similar to former Education Code section 1630, as enacted by Statutes of 1991, Chapter 1213.

be unable to meet its financial obligations for the current or two subsequent fiscal years, or if the county office of education has a qualified certification pursuant to Section 1240, he or she shall notify the county board of education and the county superintendent in writing of the basis for the determination.

Section 1630 further provides that the Superintendent of Public Instruction shall do the following, as necessary, to ensure that the county office of education meets its financial obligations: assign a fiscal expert, paid for by the Superintendent of Public Instruction, to advise the county office of education on its financial problems; and conduct a study of the financial and budgetary conditions of the county office of education. If, in the course of this review, the Superintendent of Public Instruction determines that additional analytical assistance or expertise is needed, he or she may employ expert staff on a short-term basis, at county office of education expense. The Superintendent of Public Instruction may also direct the county office of education to submit a financial projection of all fund and cash balances of the county office of education as of June 30 of the current year and subsequent fiscal years as he or she requires; require the county office of education to encumber all contracts and other obligations, to prepare appropriate cash-flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables; direct the county office of education to submit a proposal for addressing the fiscal conditions that resulted in the determination that the county office of education may not be able to meet its financial obligations; and withhold compensation of the county board of education and the county superintendent for failure to provide requested financial information. If, after taking the above actions, the Superintendent of Public Instruction determines that a county office of education will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county office of education in writing of the basis for that determination, then, the Superintendent of Public Instruction, shall, as necessary, engage in further fiscal management and advisory activities to enable the county office of education to meet its financial obligations. The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for any administrative costs associated with improving the county office of education's financial management practices.

The requirements of section 1630 are new. Consistent with its position on section 1624, DOF maintains that the requirements under this section do not create a new program or higher level of service, rather they codify or re-state the long-standing requirements of county offices of education and school districts to prepare a budget and report and account on that budget to the Superintendent of Public Instruction. Staff finds that while the activities under section 1630 are generally directed to the Superintendent of Public Instruction, this section gives the Superintendent of Public Instruction the authority to assign a fiscal expert *at the Superintendent of Public Instruction's cost* to analyze the county office of education's financial situation, to require the county office of education to perform specified activities to assist the Superintendent of Public Instruction in determining whether the county office of education is able to meet its financial obligations, and to engage, at the county office of education's expense, in fiscal management and advisory activities to enable the county office of education to meet its financial obligations.

Staff finds that the activities of the county office of education, in response to the Superintendent of Public Instruction's request: to submit a financial projection of all fund and cash balances; to encumber all contracts and other obligations; to prepare appropriate cash-flow analyses and monthly or quarterly budget revisions; to record all receivables and payables; and to submit a proposal for addressing the fiscal conditions that resulted in the county office of education's

inability to meet its financial obligations constitute activities that impose a new program or higher level of service on county offices of education.

However, the question remains whether the imposition of the Superintendent of Public Instruction's administrative costs of employing a expert staff on a short term basis and/or improving the district's financial practices on the county office of education constitutes a new program or higher level of service, and imposes costs mandated by the state. This issue was fully analyzed above in respect to section 1624, but in brief, staff finds that this portion of section 1630 does not impose a reimbursable state mandated program upon county offices of education because "local entities are not entitled to reimbursement for all costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state."²⁷ Although county offices of education can show additional costs corresponding to the absorption of the Superintendent of Public Instruction's administrative costs, there is *no* new service or activity imposed upon county offices of education by this portion of section 1630.

Thus, staff finds that Education Code section 1630 imposes a new program or higher level of service, and costs mandated by the state upon county offices of education, but only for the following activities:

- Submitting financial projection of all fund and cash balances;
- Encumbering all contracts and other obligations;
- Preparing appropriate cash-flow analyses and monthly or quarterly budget revisions;
- Recording all receivables and payables; and
- Submitting a proposal for addressing the fiscal conditions that resulted in the determination that the county office of education may not be able to meet its financial obligations.

13. Education Code section 14050. This section provides that the county superintendent of schools shall, on or before June 30 of each year, submit a tentative budget and, on or before October 1 of each year, a final budget to the Superintendent of Public Instruction for the succeeding fiscal year. The budget shall be in the form prescribed by the Superintendent of Public Instruction, setting forth all known and estimated revenues of the county school service fund for the succeeding fiscal year from all sources, and the proposed expenditures from the county school service fund for the succeeding fiscal year. The budget shall be approved by the Superintendent of Public Instruction. Upon the approval of the budget by the Superintendent of Public Instruction, he or she shall note his or her approval thereon and transmit one copy thereof to the county superintendent of schools and one copy to the county auditor of the county.

Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 18351 as Education Code section 14050. Prior law of section 14050 provided that:

"The county superintendent of schools shall on or before April 1st of each year submit to the Superintendent of Public Instruction a budget for the succeeding fiscal year, in such form as the (Superintendent of Public Instruction) shall prescribe, setting forth all known and estimated revenues of the county school service fund for such fiscal year from all sources, and the proposed expenditures

²⁷ *Lucia Mar, supra*, 44 Cal.3d 830, at 835.

from the county school service fund for such fiscal year. The budget shall be approved by the (Superintendent of Public Instruction).”

The earlier requirements of section 14050 continue with nearly identical language to the current section.²⁸ Staff finds the only significant change between the current and the previous Education Code section 14050 is the requirement for submission of a tentative budget on or before June 30, followed by a finalized budget on or before October 1 of each year. However, staff notes that former Education Code section 1621²⁹ provided that:

“On or before the date specified by the Superintendent of Public Instruction each year, the county board of education shall file with the [Superintendent of Public Instruction] a single fund tentative budget showing all the purposes for which the county school service fund will need money.”

This version of section 1621 was in effect when section 14050 was amended to specify the deadlines for the tentative and final budget submissions. Thus, staff finds the requirement to submit tentative and final budgets to the Superintendent of Public Instruction each year, on or before deadlines, is not a new activity, and therefore not a reimbursable state mandate. Staff finds the remainder of the section 14050 constitutes a directive to the Superintendent of Public Instruction, and therefore does not impose duties or activities upon local educational agencies. Therefore, staff finds that Education Code section 14050 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

14. Education Code section 42120.³⁰ This section provides that if the county board of education neglects or refuses to prepare a budget in the manner as prescribed by this article, or neglects to file interim reports pursuant to subdivision (j) of Section 1240, the Superintendent of Public Instruction shall notify the appropriate county official that they shall not approve any warrants issued by the county office of education.

Section 42120 sets forth the consequence for county offices of education that do not follow the budget and financial reporting requirements of other sections. That consequence is the inability to have further warrants approved until the required reports are filed. This section does not require any new duties or activities to be performed by local education agencies; the only directives are to a state official. Therefore, staff finds that Education Code section 42120 does not constitute a new program or higher level of service, and does not impose costs mandated by the state.

III. Test Claim Executive Orders

In addition to the test legislation claimant also maintains that California Code of Regulations, Title 5, sections 15467-15493 promulgated by the CDE impose reimbursable mandates. Under Government Code section 17516, an “executive order” may include “any order, plan, requirement, rule, or regulation issued by . . . any agency, department, board, or commission of state government.” Thus, pursuant to Government Code section 17516, regulations promulgated by the CDE are included in the definition of an executive order. However, the Commission must

²⁸ Section 14050 was amended by Statutes of 1978, Chapter 843 which deleted a clause. Statutes of 1979, Chapter 10 changed the deadline for submitting the budget from April 1 to June 30. Statutes of 1987, Chapter 1452 added the word tentative in reference to the budget due by June 30, and added the requirement for submitting a final budget by October 1 of each year.

²⁹ Statutes of 1976, Chapter 1010, renumbered and re-enacted former Education Code section 20401 as Education Code section 1621. Section 1621 was repealed and re-enacted by Statutes of 1991, Chapter 1213.

³⁰ Added by Statutes of 1993, Chapter 924; amended by Statutes of 1995, Chapter 525.

still determine if the executive order imposes a new program or higher level of service, or costs mandated by the state.

Title 5, California Code of Regulations, Sections 15467-15493

Claimant alleges that sections 15467-15493 of Title 5 of the California Code of Regulations, effective July 1, 1991, constitute executive orders which impose a new program or higher level of service and impose costs mandated by the state. Staff notes that these regulations are a restatement of Fiscal Management Advisories (Advisories) 89-02 and 90-4³¹ which set forth a two-tiered approach for review of budgets and financial required to be filed with the Superintendent of Public Instruction.

These two Advisories, which were not included in this present test claim, were considered by the Commission in *CSM-4389, Budgeting Criteria and Standards*. In the Commission's Statement of Decision for *Budgeting Criteria and Standard*, adopted August 22, 1991, the Commission found that the criteria and standards set forth in Advisories 89-02 and 90-4 met the standards of an executive order. However, after comparing these Advisories with the budget forms in place before the issuance of these Advisories, the Commission concluded that the standards and criteria set forth in these Advisories were developed from forms that the school districts had previously been using. The Commission further noted that the criteria and standards contained in these Advisories reflected the "standardization of a review process agreed to by representatives from districts, county offices, teachers unions and other state agencies."³² Accordingly the Commission concluded these Advisories did not constitute a new program or higher level of service.³³ Additionally, the Commission found that fiscal accountability by school districts is not a new program or higher level of service.³⁴

Based on the foregoing, staff concludes that the duties imposed under Regulations 15467-15493 were required prior to their adoption and accordingly, they do not constitute new programs or higher levels of service, and do not impose costs mandated by the state.

Conclusions and Recommendations

Staff concludes that Education Code sections 1240, subdivision (j), 1240.2, 1622, 1625, 1628 and 1630 impose a new program or higher level of service within an existing program upon county offices of education within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to Government Code section 17514. Accordingly, staff recommends that the Commission approve this test claim for the following activities necessary for county offices of education to comply with annual budget reporting requirements:

- Preparing, reviewing, approving and submitting, in the format or on forms prescribed by the Superintendent of Public Instruction, financial and budgetary status reports, one within 45 days of the conclusion of the period ending October 31, and one within 45 days of the period ending January 31. Certifying in writing either positively, qualifiedly or negatively, within 45 days after the close of the period being reported, whether the county office of education is able to meet its financial obligations for the remainder of the fiscal

³¹ These advisories are attached as Exhibits I and J, respectively.

³² CSM-4389, Budgeting Criteria and Standards, statement of decision, page 12.

³³ *Id.*, at 13.

³⁴ *Id.*, at 13.

year and, based on current forecasts, for the subsequent two fiscal years. (Ed. Code, § 1240, subd. (j).)³⁵

- Sending a copy of each county office of education budget status report and financial certification to the Superintendent of Public Instruction. (Ed. Code, § 1240, subd. (j).)
- Sending a copy of any negative or qualified county office of education financial certification to the SCO. (Ed. Code, § 1240, subd. (j).)
- Providing to the Controller and the Superintendent of Public Instruction, no later than June 1, a financial statement that covers the financial and budgetary status of the county office of education for the period ending April 30 and projects the fund and cash balances of the county office of education as of June 30. This is only applicable to a county office of education that has a qualified or negative financial certification. (Ed. Code, § 1240.2.)³⁶
- Adjusting for the earlier deadline of holding the public hearing by July 1, (one-time, if costs were incurred within reimbursement period.) (Ed. Code, § 1620.)³⁷
- Revising the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, including any response to the recommendations of the Superintendent of Public Instruction. (Ed. Code, § 1622.)³⁸
- Posting the agenda at least 72 hours prior to the public hearing regarding the budget revisions, including the location where the revised budget and supporting data will be available for public inspection, (only when not reimbursable under the Open Meetings Act Parameters and Guidelines.) (Ed. Code, § 1622.)
- Holding a second public hearing prior to finalizing the revised the budget, (only when not reimbursable under the Open Meetings Act Parameters and Guidelines.) (Ed. Code, § 1622.)
- Filing the revised budget with the county board of supervisors and the county auditor. (Ed. Code, § 1622.)
- Drafting a statement of correction when the county office of education incurs a negative balance. (Ed. Code, § 1625.)³⁹
- Preparing and filing with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year, in a format or on forms prescribed by the Superintendent of Public Instruction. (Ed. Code, § 1628.)⁴⁰

³⁵ Added to the code by Statutes of 1985, Chapter 741, and amended by Statutes of 1987, Chapter 1452; Statutes of 1988, Chapter 1461; Statutes of 1990, Chapter 1372; Statutes of 1991, Chapter 1213; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapter 650.

³⁶ Added by Statutes of 1995, Chapter 525.

³⁷ Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1992, Chapter 323.

³⁸ Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1992, Chapter 323; Statutes of 1993, Chapter 923.

³⁹ Added by Statutes of 1991, Chapter 1213; amended by Statutes of 1992, Chapter 323; Statutes of 1993, Chapter 923.

⁴⁰ As added by Statutes of 1988, Chapter 1461; renumbered and re-enacted by Statutes of 1991, Chapter 1213.

- Submitting to the Superintendent of Public Instruction financial projection of all fund and cash balances. (Ed. Code, § 1630.)⁴¹
- Encumbering all contracts and other obligations. (Ed. Code, § 1630.)
- Preparing for the Superintendent of Public Instruction an appropriate cash-flow analyses and monthly or quarterly budget revisions.
- Recording all receivables and payables. (Ed. Code, § 1630.)
- Submitting a proposal to the Superintendent of Public Instruction for addressing the fiscal conditions that resulted in the determination that the county office of education may not meet its financial obligations. (Ed. Code, § 1630)

Staff recommends denial of all remaining test claim issues, code sections and executive orders because they do not constitute a new program or higher level of service, and do not impose costs mandated by the state.

[**Back to Current Hearing**](#)

⁴¹ Added by Statutes of 1993, Chapter 924; amended by Statutes of 1994, Chapter 1002 and Statutes of 1995, Chapter 525. Similar to former Education Code section 1630, as enacted by Statutes of 1991, Chapter 1213